



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

NEWS RELEASE

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SFWMD Gains National Support for Issue in Federal Court

U.S. Government, numerous states, water resource agencies file support for case that protects state control over state water resources

West Palm Beach – In a significant show of support, nine states and dozens of agencies and organizations met yesterday's deadline for filing legal briefs supporting the South Florida Water Management District (SFWMD) and U.S. Government position in a federal court case involving state authority over state water resource management.

[\(Click here for list of supporting agencies and organizations\)](#)

The amicus curiae (*"friend of the court"*) briefs, written to emphasize to the court the case's serious and widespread impacts, represent a wide range of interests, including the National League of Cities, the National Hydropower Association, the American Farm Bureau Federation, 23 water resource organizations and the Florida Department of Environmental Protection. Briefs from SFWMD and the U.S. Department of Justice representing all federal agencies – including the Environmental Protection Agency, National Park Service, Fish & Wildlife Service, U.S. Army Corps of Engineers, Bureau of Reclamation and the Department of Agriculture – were filed December 14, 2007.

The case dates to 2002, when several groups filed suit to require federal permits for moving water through SFWMD pump stations S-2, S-3 and S-4 on the south shore of Lake Okeechobee. The federal National Pollutant Discharge Elimination System (NPDES) permits are most commonly used to regulate "point-source" discharges, such as from industrial activities or municipal waste operations. State water quality programs are used to regulate all other discharges, including water transfers to provide for flood control, water supply, environmental restoration and other public needs.

[\(Click here for US Dept of Justice Brief\)](#) - [Click here for SFWMD Brief](#)

"This NPDES case has implications that could impair water resources management across the nation," said SFWMD Governing Board Chairman Eric Buermann. "We are heartened by the breadth of support for the District's position that a state's water resources should continue to be managed by the individual states, as they have been since the Clean Water Act was written 35 years ago."

Earlier this year a federal judge ordered the District to apply for three NPDES permits. The agency complied and filed an appeal to address the issue of federal-state jurisdiction. Contrary to arguments that the appeal was a legal maneuver to use S-2, S-3 and S-4 to backpump water into Lake Okeechobee to enhance regional water supplies, the SFWMD Governing Board denied a request to backpump on August 9, the same day the appeal was filed.

"Florida's robust permitting system ensures that all water management operations comply with State law and adhere to the standards of the federal Clean Water Act," said Mr. Buermann in announcing the appeal. "Requiring federal permits for Florida's management and protection of its waters adds no additional protection. Moreover, it blurs the line of federal jurisdiction over state government and sends a troubling message to every water management agency in the country."

The District's brief argues that NPDES permitting does not apply to these water transfers. Western states and water resource agencies could be impacted by a decision against the District and have been watching the case closely. Their amici support, along with the U.S. Government position that NPDES permits do not apply here, are strong indicators of the appropriateness of the District's appeal and the widespread significance of this case.

Additional legal briefs will be prepared for the court over the next several months, and oral arguments will be heard by a panel of three federal judges. The likely timeframe for a decision is late 2008. ([Click here for Q&A](#))

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About the South Florida Water Management District

The South Florida Water Management District is a regional, governmental agency that oversees the water resources in the southern half of the state – 16 counties from Orlando to the Keys. It is the oldest and largest of the state's five water management districts. The agency mission is to manage and protect water resources of the region by balancing and improving water quality, flood control, natural systems and water supply. A key initiative is cleanup and restoration of the Everglades.